



The Examiner

News for Municipal Fire & Police Civil Service Board Members, Appointing Authorities, Department Administrators, and Classified Employees

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Livingston appointed State Examiner by Louisiana Civil Service Commission

Lawrence Named Deputy State Examiner

Following the retirement on January 3, 2000, of Paul K. Daly as State Examiner for the Municipal Fire and Police Civil Service, the Louisiana State Civil Service Commission appointed Melinda B. "Lindy" Livingston as Louisiana's latest State Examiner effective January 4, 2000. Livingston's appointment culminates a twenty-three year career with the Office of State Examiner. Prior to her appointment, Livingston served as Deputy State Examiner, a position she had held since 1988.

The Civil Service Commission has also appointed Robert S. "Bob" Lawrence to the position of Deputy State Examiner, effective April 5, 2000. Lawrence has been employed with the Office of State Examiner since 1991, and has most recently served as manager over the Personnel Management and Classification Division.

In order to more effectively serve the growing needs of the Municipal Fire and Police Civil Service System, Ms. Livingston has reorganized the Office of State Examiner by separating the Personnel Management and Classification Division into two distinct divisions: The Personnel Management Division, and The Classification/Information Systems Division. The divisions have been placed under the supervision of Ms. Cynthia S. Johnson and Mr. Barton B. Johnson, respectively. The Examining Division will continue to operate under the supervision of Mr. Dennis D. Bartlett, while Ms. Linda M. LeBlanc continues her role as manager over the Administrative Support Division.

A Message from Melinda B. "Lindy" Livingston, State Examiner

Dear Friends:

A new year, a new century, a new millennium, and new beginnings in the Office of State Examiner! I am excited about having been appointed State Examiner at this most interesting of times. All of us who are involved with Louisiana's Municipal Fire and Police Civil Service System – as employees, appointing authorities, governing authorities, department administrators, employees of the State Examiner's Office, or members appointed to serve on civil service boards – are each a part of a very rich and vital tradition of public service. Yours is truly unique among civil service systems. Though many have argued that some aspects of our system may be improved through change, I believe that your classified service is and will remain unequaled as we move into the twenty-first century. While progress dictates that we remain open to new ideas, we must also remain faithful to those principles that prompted the establishment of Louisiana's Fire and Police Civil Service in 1940: A system based on merit, efficiency, fitness, and length of service that provides for critical public safety needs without the shadow of political patronage. Your ability to select and retain a qualified work force and to develop an organizational structure that meets your staffing needs is fundamental to the mission of the Office of State Examiner. We are committed to assisting those associated with our system with service that is structured to meet your needs. To this end, I hope that each of you will feel free to stop by our office or call at any time if we might be of any help to you, or if you have any ideas about how our service might better meet your needs.

-- Melinda B. "Lindy" Livingston

**A Word about Political Prohibitions
under the Louisiana Municipal Fire and
Police Civil Service Law Termination is
Only Penalty**

There appears to be a growing trend lately within the Municipal Fire and Police Civil Service System in which employees of the classified service may incorrectly believe that engaging in otherwise prohibited political activities may be acceptable when the activities are considered to be on behalf of an organized group of classified employees.

Some may point to the decision of the Fourth Circuit Court of Appeal of Louisiana under Canatella v. Department of Civil Service (592 So2d 1374 (La.App. 4 Cir. 1992) as support for engaging in such political activity. However, in the case of Westly West; Dennis Lynch; Robert Polito; Henry Jaume; Bruce Verrette, v. Nick A. Congemi, Chief of Police; City of Kenner (No. 99-30258) the United States Court of Appeals for the Fifth Circuit upheld the appointing authority's action to terminate the employment of five police officers with the Kenner Police Department for violation of political prohibitions. The classified employees, as officers of a local police association, were found to have communicated the association's endorsement of and support for a political candidate.

The Office of State Examiner strongly urges classified employees against any and all activities which may be construed, in any way, to be in violation of political prohibitions. We recommend that unions or associations having classified members, or classified employees who may be called upon to represent their organizations in support of political candidates, may wish to consider seeking legal counsel prior to engaging in such activities.

We wish to remind all classified employees that the **only penalty for participating in political activity is termination.**

**1999 Legislative Session
Active Session Amends Certain
Municipal Fire and Police Civil Service Laws**

The 1999 Regular Session of the Louisiana Legislature culminated in eleven amendments to Louisiana Revised Statutes Title 33:2471 et seq. and/or 33:2531 et seq., which comprise the Louisiana Municipal Fire and Police

Civil Service Law. An overview of the Acts of 1999 that amended these statutes follows, with comments regarding certain, important revisions in the Civil Service Law, as reflected in Attorney General Opinion No. 00-167 issued April 25, 2000.

Act No. 454 (HB 1218)

Acts 1999, No. 454 amended L.R.S. 33:2476(B) and 33:2536(B)(2)(a). to provide relative to persons ineligible to serve on local civil service boards due to rank. The Act provides that the employee-elected member of the civil service board from the police service may be appointed to the board only if that employee holds a position in the classified service lower than that of Police Major.

Act No. 455 (HB 1219)

Acts 1999, No. 455 amended L.R.S. 33:2536(M). to provide relative to the number of persons required for a quorum of and for decisions by civil service boards in small municipalities and fire protection districts. Prior to Act No. 455, Civil Service Law provided only for the number of board members necessary to constitute the quorum of a five-member civil service board. The amendment clarifies the number of members necessary to constitute a quorum for both three- and five-member civil service boards operating under Act 282 of 1964, as well as the number of votes necessary to pass upon its motions.

Under L.R.S. 33:2536(M), the presence of two members of a three-member civil service board constitutes a quorum, and the presence of four members of a five-member board constitutes a quorum for official business of the board jurisdictions falling under the provisions of L.R.S. 33:2531 et seq. The concurring votes of a simple majority are sufficient for the decisions of the board. Therefore, two concurring votes on a three-member board are required at all times, whereas the concurring votes of three members present on a five-member board are required.

Act No. 456 (HB 1220)

Acts 1999, No. 456, amended Louisiana R.S. 33:2479 and 33:2539, which removed the requirements that the State Examiner act as secretary for civil service boards when requested.

Act No. 457 (HB 1223)

Acts 1999, No. 457 amended L.R.S. 33:2501(D) and 33:2561, to require the recusal of certain civil service board members from voting on appeals of disciplinary actions, and to provide relative to appeals of board decisions on questions related to recusal.

Act 457 amended L.R.S. 2561, requiring that any person serving on the civil service board who is a supervisor or direct work associate of the person appealing disciplinary action, or who is directly involved in the incident, must recuse him/herself from voting on decisions relative to the appeal. By Act 457, Louisiana R.S. 33:2501(D) and 33:2561(D) now require any person serving on the civil service board to recuse him/herself from voting on decisions relative to an appeal for disciplinary actions taken by the appointing authority against a classified employee where the employee is an immediate family member of the board member, defined as parent, child, sibling, or spouse. Act 457 further amended L.R.S. 33:2561, providing under L.R.S. 33:3561(E) that appeals may be made to district court following the decision of the board, where a board member should have or failed to recuse him/herself under the provisions of L.R.S. 33:2561(D).

Act No. 1092 (HB 1221)

Acts 1999, No. 1092 revised L.R.S. 33:2553 to provide that applicants for competitive, entry-level examinations shall not be required to be qualified electors of the State of Louisiana; and revises L.R.S. 33:2494 and 33:2554 in order that preference shall be given at the time of appointment to those candidates who are Louisiana residents. Although Act 1092 provides that employment preference shall be given to Louisiana residents, the appointing authority retains the discretion to appoint anyone deemed most qualified on the competitive list, regardless of residence.

Act No. 1093 (HB 1222)

Acts 1999, No. 1093 amended L.R.S. 33:2494 and 33:2554 removing the 30-day time limitation on the validity of certification of eligibility lists by the civil service board. The Act provides that whenever the appointing authority proposes to fill a vacancy in the classified service, the certified list of eligible persons from which the appointment may be made remains viable until its expiration date, or such time that the board must certify another list. The time limitation thus removed, certification of another list would be required as the

result of changes in seniority order due to certain disciplinary actions (promotional classes), when two or more eligibility lists are merged, or when names of persons whose scores are reported from other jurisdictions are added to Firefighter and Police Officer eligibility lists.

Act No. 1174 (HB 1851)

Acts 1999, No. 1174 enacted L.R.S. 33:2494(G) which requires the appointing authority in large municipalities to fill vacancies in the classified service within sixty (60) days after the occurrence of the vacancy. The civil service board is not prevented from abolishing unnecessary classifications.

Civil Service Law provides that the appointing authority may expand or contract the number of positions within classifications as departmental needs warrant; however, where there is a bona fide vacancy in a classified position, the appointing authority shall, within sixty days, fill the vacancy in accordance with the provisions of L.R.S. 33:2494.

Act No. 1177 (HB 1883)

Act 1999, No. 1177 amended Louisiana R.S. 33:2476 and 33:2536, relative to the appointment of civil service board members from the list of nominees provided by the executive head of an institution of higher education. Such appointments are commonly referred to as "college list" appointments.

Act 1177 provides the following:

- In order to appoint a civil service board member from a list of nominees provided by the executive head of a four-year institution of higher education, the governing authority must request a list of nominees by certified letter;
- The request must be made of the executive head of a four-year institution of higher education which is located within the governing authority's jurisdiction, or, where none is located in the jurisdiction, from such an institution which is closest in proximity to the governing authority's jurisdiction;
- The list of nominees must be received from the executive head of the institution of higher education within sixty days of the request by the governing authority;
- In the event that a list of nominees is not provided within the sixty-day period, the district attorney for

the parish in which the institution of higher education is located shall provoke the issuance of a writ of mandamus in order to compel the executive head of the institution to provide the list.

Act No. 1139 (HB 1598)

Acts 1999, No. 1139 amended L.R.S. 33:2495(B)(2) and 33:2555(B)(2), which provide for formal training for certain entry-level employees of the fire and police classified service.

Act 1139 provides the following:

- any person appointed from the competitive entrance Firefighter, Firefighter/Operator, or Police Officer employment list who, prior to his/her appointment, has obtained Firefighter I certification or Police Officer Standards and Training (P.O.S.T.) certification for his/her respective fire or police service shall immediately begin his/her working test;
- any employee appointed from the competitive entrance Firefighter, Firefighter/Operator, or Police Officer employment list who has not obtained Firefighter I certification or P.O.S.T. certification shall be reported as a recruit to the civil service board by the appointing authority within fifteen days of his/her appointment, and shall immediately begin the formal training period;
- the formal training period is for the period of not more than six months, which shall begin immediately upon appointment of the recruit from the competitive entrance Firefighter, Firefighter/Operator, or Police Officer employment list. The formal training shall be provided for through the Appointing Authority;
- the formal training period begins immediately upon appointment from the Firefighter, Firefighter/Operator, or Police Officer employment list and shall continue from the date of original appointment, concluding six months from the date of appointment or earlier upon successful completion of formal training
- successful completion of formal training is defined as the attainment of Firefighter I certification for persons appointed from Firefighter or Firefighter/Operator employment lists, and Police Officer Standards and Training

(P.O.S.T) certification for persons appointed from the Police Officer employment lists

- any recruit who has successfully completed formal training during the six-month formal training period, and has obtained Firefighter I or P.O.S.T. certification, as required for the respective service, shall immediately begin his/her working test as a probational employee. The appointing authority must report the probational appointment to the civil service board within fifteen days of the action;
- at the conclusion of the six-month formal training period, if the recruit has not demonstrated successful completion of formal training, he or she shall immediately begin the working test period, if not separated from service.

Act 1190 (HB 2274)

Acts 1999, No. 1190 enacted L.R.S. 33:2476.1, and specifically addresses the Shreveport Municipal Fire and Police Civil Service Board with regard to its composition, the appointment and terms of office of its members, the disposition of the current civil service board, and the effective time period of the Act. Inasmuch as the Act solely affects the Shreveport Municipal Fire and Police Civil Service Board, it is mentioned here only for informational purposes.

Act No. 1165 (HB 1734)

Acts 1999, No. 1165 amended L.R.S. 33:2586 to provide that fire and police civil service boards of certain municipalities, parishes, and fire protection districts may establish an incentive pay plan for classified employees, which includes the criteria for eligibility, the method by which employees are reviewed for eligibility, and how eligibility is to be determined. The determination of the amount of incentive pay and which employees are to receive such pay shall be made by the appointing authority, subject to available funds budgeted for such purpose.

The authority of the civil service board under the provisions of this Statute is limited only to the establishment of the incentive pay plan, and does not extend to determining the amount of pay which is to be awarded, or to which employees it is to be awarded. However, the civil service board may grant a hearing and investigation into such matters in which a classified employee feels he/she has been discriminated against in the application of the pay plan.

Attorney General Opinions of Special Interest**No. 97-254**

St. Tammany FPD #4's Sick Leave Incentive Program is constitutional, and does not violate La. Const. Art. VI, Sec. 14, for the reason that payments made pursuant to the program are not donations, but are an earned benefit of employment.

No. 99-232

The following work day may not be considered a holiday when the holiday falls on an employee's day off. Employee's birthday is not a statutorily defined legal holiday, but the authority may declare said birthday a legal holiday for police employees.

No. 99-418

The delegated authority to the committee or subcommittee designated under proposed Rule XIII creates a public body subject to the open meetings laws. Any meetings held by that public body must conform with all notice requirements under those laws.

(NOTE: Opinion responds to inquiry of whether civil service board chairman may sign all forms or documents provided such documents are reported at next regular meeting for ratification.)

No. 00-58

Rule adopted by municipal fire and police civil service board regarding minimum age requirement for police officers currently disallows employment to those individuals under the age of twenty-one, but may be changed upon petitioning the board. Further, the federal restrictions on sale of guns to persons under the age of twenty-one does not apply to individuals vested with police power in the actual discharge of official duties.

No. 00-190

An employee may use accrued sick leave when absent from work pursuant to an FMLA situation only if the employer's leave policy allows sick leave to be used for that purpose. FMLA does not distinguish classified or unclassified positions in its application.

Louisiana Board of Ethics Opinions of Special Interest**No. 97-917**

A Fire Captain who was the elected fire department employee member of the Fire and Police Civil Service Board violated the Ethics Code by participating in a vote to delay the consideration of a letter requesting a change in the qualifications for the position of Fire Training Officer. The qualifications restricted admission to the test to individuals who possessed two years experience as a Fire Captain. At the time of the Civil Service Board meeting at which the vote was taken, the Fire Captain knew that he would take the test for the Fire Training Officer position. §1112A

No. 98-265

A chief of a volunteer fire department violated the Ethics Code by entering into transactions to provide copying services and to lay a cement drive for the fire department while he served as the fire chief. Both the fire chief and his son violated the Ethics Code by virtue of the son's summer employment with the fire department. In addition, the fire chief's wife violated the Ethics Code by entering into transactions to provide dispatching and cleaning services to the department. §1113A & §1119

No. 99-265

A former Councilman for the City of Sulphur, whose term expired in May 1998, may not be appointed by the Council to serve on the Sulphur Fire and Police Civil Service Board until two full years have passed since the termination of his service as a Councilman. §1121A(2) & 11123(1)

No. 99-413

A dispatcher for the DeRidder Police Department violated the Ethics Code by directing ambulance calls to an ambulance service at a time when the employee partially owned the service. The ambulance service violated the Ethics Code by being included on the rotation list maintained by the DeRidder Police Department while the employee was employed by as a dispatcher for the police department. §1112 & §1113A

Please note that the advisory opinions rendered by the Board of Ethics are based upon the particular facts presented. As such, the scope of each opinion is limited to the parties and the facts involved. However, the opinions may serve as a general guide to other individuals similarly situated. You may always seek an advisory opinion specific to your situation by writing to the Board at: 8401 United Plaza Blvd., Suite 200, Baton Rouge, LA 70809-7017

State Examiner's Website Updated

Now Includes Printable Applications
and Study Guides

The Office of State Examiner is constantly exploring ways in which information may be made available to persons interested in the Municipal Fire and Police Civil Service System. It is our desire to provide as much helpful information as possible to those who may require it out of necessity, as well as to be a source of information to anyone who may be curious about the Municipal Fire and Police Civil Service System and matters of personnel administration under the provisions of the Civil Service Law.

We've updated our website significantly and, if it has been a while since you last visited, we invite you to take a second look. We recently established a link through **InfoLouisiana**, the State's gateway to information resources which you may reach by searching to **www.state.la.us**. Click on **State Departments** where you'll find **Municipal Fire and Police Civil Service** listed under the heading of **State Agencies**.

You'll find that we have included, along with scheduling information for Firefighter and Police Officer tests, pre-examination booklets that one may use to prepare for these entrance examinations. Also, to facilitate contact with jurisdictions, we have now included a page of local jurisdiction information with the names of board chairmen, and contact information.

We often receive requests for study guide information from persons wanting to get a head-start on studying for their next promotional exams. To facilitate this process, we are now building a database of study guide information for each jurisdiction as the tests are requested, and as soon as a study guide is mailed to your civil service board, the study guide will also be posted on our website and linked to the jurisdiction where the examination is to be administered. Eventually, the database will include study material for the last test given, even if a test is not currently scheduled, in order to promote year-round study efforts. Everyone is cautioned, however, to check for updated study guides as new tests are scheduled.

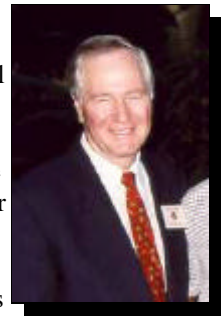
Interested in seeking employment or promotion in the classified service? Find applications for promotional and competitive examinations that are ready to be printed directly from the website.

We anticipate posting additional information as we are able, and plans include adding links to other government

agencies, a compilation of summaries of Attorney General Opinions that may be of particular concern to those involved with the classified service, a copy of the civil service manual entitled, "*Operations of a Civil Service System*," qualification requirements for classes in each jurisdiction, and a page dedicated to frequently asked questions.

Paul K. Daly**State Examiner Emeritus**

Following a long and distinguished career with the Municipal Fire and Police Civil Service, Paul K. Daly began his well-deserved retirement on January 3, 2000. Paul's tenure with the Office of State Examiner spanned nearly 27 years, the last 12 of which were in the capacity as State Examiner. Mr. Daly's reputation for his dedication to the Municipal Fire and Police Civil Service System, both professionally and personally, is well-known. Due in no small part to his vision and leadership as State Examiner, the services provided by the Office of State Examiner continued with very little impact following his retirement. Paul's support for our system continues even into his retirement, and we must offer a special thank-you to him for his tireless efforts recently with the Legislature in restoring our funding.



GOOD LUCK, PAUL, AND THANK YOU

Phone Numbers to Keep Handy

We are here to provide you with answers to your questions, Monday through Friday, from 8:00 AM to 4:30 PM. Most days you will find someone here earlier or later than these hours. We are committed to providing you with the service you need, and have a policy of never transferring a business call to voice mail, unless you specifically request it. We also have a policy of returning calls as soon as possible, but certainly within the business day except in very extenuating circumstances. You may call our 24-hour information line for information about upcoming Firefighter and Police Officer tests, or to leave a message for our staff after hours.

TELEPHONE NUMBERS

ADMINISTRATIVE AND MANAGEMENT STAFF

OFFICE OF STATE EXAMINER

MUNICIPAL FIRE AND POLICE CIVIL SERVICE

Name	Telephone Number	Voice Mail Number
Melinda B. Livingston State Examiner	(225) 925-4416	82
Robert S. Lawrence Deputy State Examiner	(225) 925-7097	64
Dennis D. Bartlett Examining Division	(225) 925-4412	85
Cynthia S. Johnson Personnel Management	(225) 925-4409	86
Barton B. Johnson Classification and Information Systems	(225) 925-4419	83
Linda M. LeBlanc Administrative Support	(225) 925-4407	76
Fax/Info-line	(225) 925-4567	

**New Address
for the
Office of State Examiner**

We're not moving, but we will have a new mailing address effective July 1. Due to rising costs associated with State messenger mail, we are canceling that service and our post office box. Mail will now be delivered to our street address via U.S. Mail. The U.S. Postal Service will continue to forward mail from our box for one year, but for the fastest service, please use our street address.

The new address is:

Office of State Examiner
8401 United Plaza Blvd, Suite 280
Baton Rouge, LA 70809

**Interesting Statistics
about the
Municipal Fire and Police
Civil Service System**

**Approx. number
of classified employees 7500**

**Approx. number
of individual classifications 850**

Number jurisdictions 96

Number of municipalities 42

Number of fire protection districts 54

Number of police departments 41

Number of fire departments 94

**Approx. number of
candidates tested annually 5900**

**Approx. Number of
examinations given annually 425**

**Approx. number of
personnel action forms
processed per year 5000**

MISSION

The mission of the Office of State Examiner, Municipal Fire and Police Civil Service, is to administer an effective, cost-efficient civil service system based on merit, efficiency, fitness, and length of service, consistent with the law and professional standards, for fire fighters and police officers in all municipalities in the state having populations of not less than 7,000 nor more than 400,000 inhabitants, and in all parish fire departments and fire protection districts regardless of population, in order to provide a continuity in quality of law enforcement and fire protection for the citizens of the state in both rural and urban areas.